

ENTERED

February 18, 2025

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CASSANDRA BENTON,	§	CIVIL ACTION No
Plaintiff,	§	4:24-cv-00113
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
TEXAS DEPARTMENT	§	
OF CRIMINAL	§	
JUSTICE,	§	
Defendant.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiff proceeds *pro se* and filed a complaint naming Defendant Texas Department of Criminal Justice on January 10, 2024. Dkt 1. The matter was referred for pretrial management to Magistrate Judge Christina A. Bryan. Dkt 4.

Pending is a Memorandum and Recommendation by Judge Bryan recommending that this case be dismissed with prejudice for failure to state a claim because (i) TDCJ isn't a "person" for purposes of a claim for damages under 28 USC §1983, (ii) Plaintiff pleads negligence only, but a claim under 1983 requires intent, and (iii) Plaintiff doesn't allege a claim for deprivation of a recognized life, liberty, or property interest. Dkt 15.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no

clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

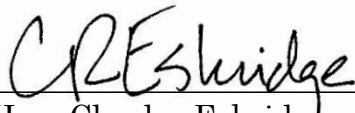
No party filed objections to the Memorandum and Recommendation. No clear error appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 15.

This action is DISMISSED WITH PREJUDICE. This is a FINAL JUDGMENT.

SO ORDERED.

Signed on February 18, 2025, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge